

Testimony of Al Shehadi
Public Health Committee Hearing March 16, 2018
Regarding: S.B. 294: An Act Concerning the PSRB

My name is Al Shehadi. I am the brother and co-conservator of Bill Shehadi, the patient at the center of the Whiting abuse scandal. I want to thank the Committee for its work to investigate the abuse scandal. I applaud you for drafting legislation in response to the scandal. I am here to strongly support Bill 294, An Act Concerning the PSRB.

The abuse my brother suffered is hard to imagine. The individual acts of abuse were cruel to the point of sadism. The scale of the abuse is likewise incomprehensible. The arrest warrants describe roughly 50 incidents of abuse over a 24 day period. On more than half of those days, there were multiple incidents. Ten staff have been criminally charged, another 22 are named as witnesses, close to 40 have been put on leave and a substantial number have now been fired. These numbers are staggering. There should be no doubt in anyone's mind that what happened to my brother represents a systemic failure at all levels of DHMAS, from line staff to leadership. Systemic failure of this scale can only be addressed by systemic change such as the proposed legislation.

Amending the PSRB process, as is proposed in Bill 294, is a necessary part of that systemic change. The current PSRB process is inconsistent with the Patient's Bill of Rights and would not be acceptable if it were applied to any other group in society other than individuals with mental illness. Parts of that process, particularly the ability to recommit individuals indefinitely, accomplish little more than punishing individuals simply for being mentally ill.

In brief testimony such as this, it is hard to adequately describe the symbiotic relationship between the PSRB and Whiting. PSRB matters because it controls the lives of the forensic patients at Whiting. Its sole mandate is to consider public safety, nothing else. It has the power to indefinitely re-commit individuals who have completed their initial court determined commitment and it controls things as mundane as transfers from the maximum security part of Whiting to medium security part known as Dutcher. PSRB's mandate leads Whiting staff to focus their reports almost exclusively on real or perceived risks to public safety and not other, equally relevant questions, such as whether the patient is getting appropriate treatment or is in the right setting; whether treatment is at all effective; or whether a patient's civil rights are being respected. The result of this symbiosis is what I call Hotel California: once you check in, it's really hard to get out regardless of whether your stay is appropriate, effective, humane or simply a good use of taxpayer dollars.

My brother's two most recent reports to the PSRB illustrate this symbiosis. The first report, dated March 30, 2017, was written ten days after the DMHAS police were notified of the abuse; after eight staff had already been put on administrative leave; the day before the DMHAS commissioner requested the State Police take over the abuse investigation; and about the same time as the first stories appeared on the evening news. That timing notwithstanding, the word "abuse" does not appear once in that report. Not only does the word abuse not appear in the report, at no point is there any mention that some of the behaviors described in the report, including "aggressive behavior" toward staff might in fact be related to how staff are treating him. In contrast, the CMS report, done several months later, does a nice job of highlighting multiple instances where "aggressive behavior" noted in the written clinical records in fact occurs at the same time as or shortly after incidents of abuse captured on video.

The next report to the PSRB is dated September 8, 2017, six months after the abuse was uncovered, a month after the CMS report was made public and three days after the first staff were arrested. Words

such as “alleged abuse” or “abuse allegations” appear all of three times in a five-page, single spaced report. I quote the second instance, from page two: “On March 22, 2017, Mr. Shehadi was transferred from Unit 6 to Unit 4 for administrative reasons following allegations of abuse from several members of the Whiting Service staff.” We could spend more time than we have here today parsing what that sentence inartfully avoids saying. I will simply refer the Committee to my comments on S.B. 406 regarding the current absence of transparency at Whiting. At no point in the report is there any discussion of what abuse occurred, how pervasive it was or that some of the behaviors describe in the report (or in prior reports) might be connected to the abuse he suffered.

I have a hard time imagining that this kind of report could have been written by Whiting staff or accepted by the PSRB if the mandate of PSRB included appropriateness of care and protection of patient rights in addition to public safety.

Bill 294 does several important things that I strongly support:

- It broadens PSRB’s mandate to balance public safety with treatment considerations and patient civil rights.
- It ends the ability to endlessly re-commitment an individual who has completed their court mandated commitment period.
- It eliminates PSRB oversight over transfers from Whiting to Dutcher.
- It allows individual’s legal representative to apply for temporary leave, an often important step in transitioning a patient from an institutional setting to a community setting.
- It gives legal counsel the right to access video recordings of their clients.

There are two modest language changes I would like to propose to improve an already strong bill:

- Section 2 adds language that the PSRB “consider whether or not a less restrictive placement is available”. It could be argued that this language implicitly incorporates consideration of whether such placement is therapeutically appropriate. This language should be revised to make the appropriateness of care explicit. I would suggest revising to: “(2) consider whether another placement is available which is less restrictive and/or more therapeutically appropriate.”
- Section 5 adds language guaranteeing legal counsel access to video recordings. This language needs to be broadened to include legal representatives such as guardians or conservators. I would propose revising to: “...shall be disclosable to any guardian, conservator or counsel for the acquittee, with or without the acquittee's consent”

I trust the Committee understands that I have strong feelings about access to videos. Without videos of my brother’s abuse none of us would be here today.

In closing, systemic reform is needed to prevent patient abuse from happening again. PSRB is part of the Whiting ecosystem and needs to be included in the systemic reform. The proposed bill, with the two modest amendments I have proposed, will go a long way to making the needed reforms to the PSRB.